



Agenda Date: 1/31/01
Agenda Item: 7A-1

STATE OF NEW JERSEY
Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

CABLE TELEVISION

IN THE MATTER OF THE ALLEGED FAILURE)	<u>ORDER ACCEPTING</u>
OF TIME WARNER CABLE COMMUNICATIONS)	<u>OFFER OF SETTLEMENT</u>
TO CONFORM TO <u>N.J.A.C. 14:18-3.17</u>)	
NOTICE OF ALTERATION OF CHANNEL)	
ALLOCATION)	DOCKET NO. CO01010010

(SERVICE LIST ATTACHED)

BY THE BOARD:

Time Warner Cable of Bergen and Hudson ("Time Warner"), a multiple system operator with its principal offices located at 200 Roosevelt Place, Palisades Park, New Jersey, is a franchised cable television operator, which provides cable services to approximately 57,000 New Jersey customers throughout fourteen (14) municipalities in Bergen and Hudson counties. The Board's Office of Cable Television Inspection and Enforcement Bureau ("Office") has alleged that Time Warner was not conforming to certain provisions of the New Jersey Administrative Code, N.J.A.C. 14:18-1.1 et seq. and more specifically, N.J.A.C. 14:18-3.17 Notice of alteration of channel allocation. The aforementioned regulation requires all cable systems in New Jersey to notify the Office at least thirty (30) days prior to the effective date of a change.

As a result of correspondence and telephone conversations between Time Warner and the Office, Time Warner submitted an Offer of Settlement concerning the following alleged non-conforming practice:

- A. Staff alleges that Time Warner failed to provide the Office written notice of an alteration of channel allocation at least 30 days prior to the effective date, as required by N.J.A.C. 14:18-3.17.

Time Warner submitted its monetary Offer of Settlement in the amount of \$10,000.00 in order to resolve all issues concerning the violation alleged by the Office. The offer represents a reasonable settlement in view of the alleged violation and the operator's past compliance history. In addition to the monetary settlement, Time Warner has undertaken or agreed to complete the following remedial action:

1. Time Warner provided all customers with a refund of two full days of basic charges, a credit of \$.61 per subscriber, although the deletion resulted in only a temporary loss of programming for a single channel.

2. Time Warner offered all customers 30 days of free service for any premium channel they did not already subscribe to.
3. Time Warner offered a credit program to its customers through June 30, 2000, providing up to \$15 for customers, who purchased an A/B switch in order to receive ABC programming over the air by means of an antenna.

The Office recommends acceptance of this Offer of Settlement based upon the aforementioned commitments and remedial action. The Office will monitor the Time Warner's future practices and procedures as set forth in the New Jersey Administrative Code.

The Board has reviewed the matter and recommendations of the Office, and HEREBY FINDS them to be reasonable. Therefore, the Board HEREBY ACCEPTS the Offer of Settlement proffered by Time Warner subject to the following provisions, conditions and/or limitations:

1. Time Warner must tender the \$10,000.00 monetary payment to the State of New Jersey within fifteen (15) days of the Board's acceptance of the Offer of Settlement.
2. The Board's acceptance of the Offer of Settlement is for the purposes of this proceeding only and shall not be construed as limiting the Board's authority in any other matter affecting Time Warner or any successor company.
3. For the purposes of assessing penalties for future offenses by Time Warner, or any successor company operating its cable system, such future offenses shall be considered subsequent offenses, in accordance with N.J.S.A. 48:5A-51(b).

DATED: January 31, 2001

BOARD OF PUBLIC UTILITIES
BY:

(signed)

HERBERT H. TATE
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH
SECRETARY

IN THE MATTER OF THE ALLEGED FAILURE OF TIME WARNER CABLE OF

**BERGEN AND HUDSON TO CONFORM TO N.J.A.C. 14:18-3.17 NOTICE OF
ALTERATION OF CHANNEL ALLOCATION IN THE DELETION OF WABC-NY,
CHANNEL 7, FROM ITS CABLE SYSTEM**

BPU Docket No. CO01010010

SERVICE LIST

Celeste M. Fasone, Director
Office of Cable Television
Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102

William H. Furlong, Chief
Bureau of Inspection & Enforcement
Office of Cable Television
Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102

Steven Rastatter
Amy Drummond
Bureau of Inspection & Enforcement
Office of Cable Television
Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102

Leon J. Sokol, Esq.
Arthur Bergman, Esq.
Sokol, Behot & Fiorenzo
433 Hackensack Avenue
Hackensack, New Jersey 07601

Joseph Haldusiewicz, DAG
Department of Law & Public Safety
124 Halsey Street
Post Office Box 45029
Newark, New Jersey 07101

Roger C. Wells, General Manager
Time Warner Cable
200 Roosevelt Place
Palisades Park, New Jersey 07650

WF/ac